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In re Application of LEWANDOWSKI et al :
U.S. Application No.: 09/869,178 :
PCT Application No.: PCT/US01/02780 : DECISION
Int. Filing Date: 26 January 2001 :
Priority Date Claimed: 26 January 2000 :
Attorney Docket No.: 3114.00037 :
For: LAMINANT CONTAINER WITH FITMENT :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 22 September 2003.

BACKGROUND

On 26 January 2001, applicant filed international application PCT/US01/02780, which claimed priority of an earlier United States application filed 26 January 2000. The twenty-month period for paying the basic national fee in the United States expired on 26 September 2001.

On 22 June 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 20 February 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/US01/02780 became abandoned as to the United States for failure to timely reply to the Notification of Missing Requirements.

On 22 September 2003, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 26 January 2001, and a date under 35 U.S.C. 371(c) of 22 September 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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